



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE-2017-0007]

**United States Air Force 81st Security Forces Anti-Terrorism Office, Restricted Area,
Keesler Air Force Base, Biloxi, Mississippi**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is establishing a no anchorage restricted area within waters along the Back Bay of Biloxi shoreline of the Keesler Air Force Base (KAFB) located in Biloxi, Mississippi, on behalf of a request by the United States Air Force (USAF) 81st Security Forces Anti-Terrorism Office. The no anchorage restricted area will be established by placing 12 buoys to demarcate the approximately 10,000 feet of shoreline east to west and extend approximately 150 feet from the shoreline of the base. The restricted area is essential to address a major anti-terrorism and safety concern due to the lack of perimeter fencing or physical denial system.

DATES: Effective Date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David Olson), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Mr. Don Mroczko, U.S. Army Corps of Engineers, Mobile District, at 251-690-3185.

SUPPLEMENTARY INFORMATION: The 81st Security Forces Anti-Terrorism Office, KAFB, located in Biloxi, Mississippi is responsible for United States Air Force perimeter security at KAFB located in Biloxi, Mississippi. In accordance with Department of Defense and Department of the Air Force guidance, the 81st Security Forces Anti-Terrorism Office is responsible for the antiterrorism efforts and force protection of Department of the Air Force assets under his or her charge. In response to a request by the United States Air Force, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending the regulations in 33 CFR part 334 by establishing a new restricted area.

The proposed rule was published in the November 16, 2017, edition of the Federal Register (82 FR 53440) and the docket number was COE-2017-0007. In response to the proposal, four comments were received. One commenter stated support for the project. Three agency comments were received stating no objections to the proposal regarding cultural resources and fish and wildlife habitat.

In response to a request by the United States Air Force, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending the regulations in 33 CFR part 334 by establishing a new restricted area.

Procedural Requirements

a. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance because it is exempt from the requirements of Executive Order 13771.

The Corps has made a determination this rule is not a significant regulatory action. This regulatory action determination is based on the size, duration, and location of the restricted area. The restricted area occupies a small portion of the waterway and a vessel that needs to transit the restricted area may do so if the operator of the vessel obtains permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB or its authorized representative.

b. Impact on Small Entities.

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Corps certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some

owners or operators of vessels that intend to transit the restricted area may be small entities, for the reasons stated in paragraph (a) above this rule would not have a significant economic impact on any vessel owner or operator. In addition, the restricted area is necessary to address a major anti-terrorism and safety concern due to the lack of perimeter fencing or physical denial system. Small entities can utilize navigable waters outside of the restricted area. Small entities may also transit the restricted area as long as they obtain permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB, Biloxi, Mississippi, or its authorized representative. The restricted area is necessary for security of KAFB. The Corps determined that the restricted area would have practically no economic impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of this restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act. This rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment has been prepared. It may be reviewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT section, above.

d. Unfunded Mandates Act. This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Public Laws 104-4, 109 Stat. 48, 2 U.S.C. 1501 et seq.). We have also found under

Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rule.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

PART 334 – DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.787 to read as follows:

§ 334.787 81st Security Forces Anti-Terrorism Office, Keesler Air Force Base, Biloxi, Mississippi; no anchorage restricted area.

(a) The area. The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area identified as Keesler Air Force Base (KAFB) and the mean high water level within an area bounded by the shore and buoys from the east to the west of the area starting at: latitude 30°25'11.73"N longitude 88°54'57.69"W, thence to latitude 30°25'11.85"N longitude 88°55'3.46"W, thence to latitude 30°25'8.00"N longitude 88°55'10.10"W, thence to latitude 30°25'4.15"N longitude 88°55'16.74"W, thence to latitude 30°25'6.96"N longitude 88°55'24.12"W, thence to latitude 30°25'1.83"N longitude 88°55'30.01"W, thence to latitude 30°24'56.15"N longitude 88°55'34.16"W, thence to latitude 30°24'51.14"N longitude 88°55'39.56"W, thence to latitude 30°24'47.48"N longitude 88°55'46.64"W, thence to latitude 30°24'51.08"N longitude 88°55'53.46"W, thence to latitude

30°24'55.30"N longitude 88°55'59.91"W, thence to latitude 30°24'56.87"N longitude 88°56'7.40"W. The datum is NAD-83.

(b) The regulations. (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or USAF authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB or its authorized representative.

(2) The restricted area is in effect twenty-four hours per day and seven days a week (24/7).

(3) Should warranted access into the restricted navigation area be needed, all entities are required to contact the USAF 81st Security Forces Anti-Terrorism Office, KAFB, Biloxi, Mississippi, or its authorized representative.

(c) Enforcement. The regulation in this section shall be enforced by the USAF 81st Security Forces Anti-Terrorism Office, KAFB and/or such agencies or persons as that office may designate.

Dated: April 6, 2018.

Thomas P. Smith,

Chief, Operations and Regulatory Division,

Directorate of Civil Works.

[FR Doc. 2018-07919 Filed: 4/16/2018 8:45 am; Publication Date: 4/17/2018]